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COLONIAL OFFICE CORRESPONDENCE

1898 and 1899

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679 K.

THE SECRETARY OF STATE FOR THE COLONIES

TO

THE GOVERNOR GENERAL.

Telegram.

LONDON, 2nd February, 1898.

To Governor General,
Ottawa.

I have communicated your telegram 30th January, to Lord Salisbury. Your Govt. should consider whether it is not now advisable to approach the Govt. of the United States with a view to settling definitely the boundary line that extends to the south of Mount Elias.

CHAMBERLAIN.

722 K.

Mr. Chamberlain to Lord Aberdeen.

Secret and Confidential.

24th February, 1898.

With regard to Alaskan Boundary, following instructions have been sent to H. M. Ambassador at Washington: "Propose to Govt. of U. S. that the determination of line "in accordance with treaty of 1825 should be referred at once to three Commissioners, "one appointed by Great Britain, one by U. S. and a third by an independent Power. "The Commissioners are to be jurists of high standing. Suggest that the Commission "should at once proceed to determine the frontier at the head of those inlets through "which enters the traffic for the Yukon Valley—and that it should continue sub-"sequently with the remainder of the strip.

"If, in any part of the country actually in dispute gold happened to be found, "Commission might be authorized (until it was able to fix the line in the particular "locality) to make temporary arrangements for safe-guarding interests and rights of both parties.

"It would be satisfactory if a Modus Vivendi could be amicably arranged pending "the settlement by Commission."

CHAMBERLAIN.

854 K.

DOWNING STREET, 13th April, 1898.

CANADA.
Confidential.

MY LORD,—I have the honour to transmit to you for the confidential information of your Ministers, with reference to your telegram of the 31st ult., a paraphrase of a telegram noted in the schedule below respecting the Alaska Boundary negotiations.

I have, &c.,
EDWARD WINGFIELD,
For the S. of S.

The Officer Administering
The Government of Canada.

DATE.	DESCRIPTION OF DOCUMENT.
9th April, 1898..	Foreign Office to Sir J. Pauncefote, Telegraphic.

354589

Paraphrase of a Telegram from the F. O. to Sir Julian Pauncefote, Washington.

F. O., 11.30 p.m., April 9, 1898.

No. 60. Alaska Boundary Your telegram No. 23 of March 27. Canadian Government demur to proceeding with demarcation under Convention of 1892. A despatch explaining reasons not yet received, but the objection probably is that in view of wide divergence of views the negotiations could lead to no result. They are prepared to agree to the fixing of a provisional line at the watershed at first summit north of Dyea without prejudice to the claims of either party, and you might ascertain whether United States Government would agree to this proposal. You will observe that the provisional boundary is considerably more than ten leagues from the coast. If you consider that there is now a better chance of the Senate's accepting a supplementary Convention providing for a final adjustment by arbitration of the whole question, you should urge the President to agree to immediate nogotiation of such a Convention on the lines which my telegram of February 19 laid down.

858 K.

DEPARTMENT OF THE INTERIOR,
OTTAWA, May 9, 1898.

Confidential.
Fo His Excellency,
The Governor General in Council.

The undersigned has the honour to acknowledge the receipt of the two references from Council, dated respectively to 27th and 30th ulto., P.C. No. 854 K. and 858 K. of copies of confidential despatches from the Colonial Office, dated 13th ulto., covering copies of two telegrams dated the 9th of the same month, from the Foreign Office to the British Ambassador at Washington, with regard to the Alaska Boundary, and to state that the same have been duly noted.

Respectfully submitted,
CLIFFORD SIFTON,
Minister of the Interior.

CANADA.

Confidential.

DOWNING STREET, April 13, 1898.

MY LORD,—I have the honour to transmit to you for the confidential information of iyour ministers with reference to your telegram of the 31st ult. a copy of the documents noted below respecting the action of the United States officer at Dyea with regard to the exercise of Canadian jurisdiction at summits of passes and at Lake Lindeman.

I have, &c.,
EDWARD WINGFIELD,
For the S. of S.

The Officer Administering
The Government of Canada.

DATE.	DESCRIPTION OF DOCUMENT.
April 9, 1898.....	Paraphrase of a telegram from the F. O. to Sir J. Pauncefote.

Paraphrase of a telegram to Sir Julian Pauncefote.

F. O. 11.45 p.m., 9 April, 1898.

No. 61, Alaska Boundary. A letter from the Colonial Office dated 7th April, complaining of action of United States officer at Dyea in requesting Canadian police to cease exercising jurisdiction at summits of passes and at Lake Lindeman has been sent to you by bag.

On its receipt you are to make a friendly representation to United States Government, pointing out the extreme inconvenience of allowing officers necessarily unacquainted with the present position of the controversy to take local action of this kind. It is hardly possible that any arbitration can fix a line so unfavourable to Canada as the one thus claimed for the first time; and it is most desirable that both governments should work harmoniously to relieve distress and preserve order.

896 K.

Sir J. Pauncefote to Lord Aberdeen.

14th May, 1898.

The U. S. Govt. are willing to agree to the temporary demarcation of the boundary round the head of Lynn Canal. The general plan to be followed is that suggested by the Dominion Govt., viz., that the summit of the watershed surrounding the head of the Lynn Canal shall be followed by the boundary line.

The U. S. Govt. propose that on this watershed in at least three places suitable monuments should be erected to mark definite points by two assistants appointed by each Govt. Three of said places to be the summit of each of the three passes.

U. S. Govt. desire it to be distinctly understood that rights under existing treaties for the ultimate adjustment of the boundary line in question shall not be affected by this arrangement.

I have informed Lord Salisbury. What steps are proposed to be taken to carry out the delimitation? I am forwarding copy note by mail.

J. CHAMBERLAIN.

874 K.

DEPARTMENT OF THE INTERIOR,
OTTAWA, 17th May, 1898.

To His Excellency
The Governor General in Council.

The undersigned has the honour to acknowledge the receipt of the Reference from Council of the 14th instant, No. 874 K. of a copy of a communication from the Colonial Office, dated 26th ult., covering copy of one from the Foreign Office of the 23rd of the same month, with regard to the Alaska Boundary negotiations.

Respectfully submitted,

CLIFFORD SIFTON,
Minister of the Interior.

No. 115.

CANADA.

DOWNING STREET, April 26, 1898,

MY LORD,—I have the honour to transmit to you, for the information of your Ministers, a copy of the letter specified below respecting the prosposed answer to a question in the House of Commons relative to the Alaska Boundary negotiations.

I have, &c.,

EDWARD WINGFIELD,
For the S. of S.

The Officer Administering,
The Government of Canada.

Date.	Description of Document.
April 23	F. O. to C. O.

Immediate.

FOREIGN OFFICE, April 23, 1898.

SIR,—With reference to the question, of which notice has been given in the House of Commons, respecting the Alaska Boundary, I am directed by the Secretary of State to inform you that in reply to an enquiry made by telegraph H. M. Ambassador at Washington has reported, after consulting the State Department, that there is no objection to the proposed answer to the effect that the question of arbitration is under the consideration of the governments of the United States and Great Britain, nor to an addition that there is a good reason to believe that an agreement will shortly be concluded for a *modus vivendi* at the passes on the routes to the mining districts pending a final adjustment of the boundary line.

I have, &c.,

F. H. VILLIERS.

The Under Secretary of State,
Colonial Office.

369 K.

DEPARTMENT OF THE INTERIO,
OTTAWA, August 11, 1897.

To His Excellency
The Governor General in Council.

The undersigned has the honour to acknowledge the receipt of the reference from council, dated the 5th instant, P.C. No. 369 K. of a communication under date of July 22 last, addressed to Your Excellency by the Right Honourable the Secretary of State for the Colonies, to the effect that in the event of any amendment being made in the Alaska Boundary convention, Your Excellency's Ministers will be consulted before it is agreed to by Her Majesty's Government.

Respectfully submitted,

CLIFFORD SIFTON,
Minister of the Interior,

Mr. Chamberlain to Lord Aberdeen.

No. 250.

CANADA.

DOWNING STREET, July 22, 1897.

MY LORD,—I have the honour to acknowledge the receipt of your despatch No. 187 of June 23, together with an approved minute of the Dominion Privy Council respecting the amendment of the Alaska Boundary Convention which is said to be contemplated by the United States Senate with regard to that part of it which defines a portion of the line by reference to the peak of Mount St. Elias.

In reply, I have to assure your Ministers that if any modification of the treaty is made by the United States Senate, your Ministers will be consulted before it is agreed to by Her Majesty's Government.

I have, &c.,
CHAMBERLAIN.

1667 K.

Mr. Chamberlain to Lord Minto.

(Copy).
CANADA.
Very Confidential.

DOWNING STREET, November 1, 1899.

MY LORD,—I have the honour to acquaint you, for the information of your Ministers, that Her Majesty's Government have had under their consideration the present position of the Alaska Boundary question.

They have had the advantage of conferring on the subject with Sir Louis Davies, who has furnished a full statement of the case of your Ministers for the interpretation of the boundary Articles of the Treaty which is maintained by Canada.

I need scarcely say that Her Majesty's Government share the views of your Ministers as to the interpretation of the Treaty of 1825, and have, as you are already aware, been urging the United States Government to agree to the reference of the dispute to a Tribunal of Arbitration on the lines adopted in the case of the boundary dispute between this country and Venezuela, but hitherto without success.

The main difficulty arises from the position of the two towns of Dyea and Skagway at the head of the Lynn Channel. The United States Government maintain that these towns were established by them on what they had every reason to believe was undoubtedly American soil, that they were so established largely in the interests and for the convenience of Canadian trade, that no protest or objection was made by Her Majesty's Government on behalf of Canada against their action in the matter, and that until the meeting of the Joint High Commission they had no reason to believe that any claim on the part of the Dominion to the headwaters of the Channel was seriously entertained.

I do not propose now to examine how far these statements are warranted, but there can be no doubt that the United States Government are convinced of their validity, and consequently refuse to entertain any proposals for an arbitration which would place the position of these towns in question, and though the discussion is still proceeding, it is improbable that they will modify their attitude on this point.

They are so far justified in differentiating the present dispute from that with Venezuela, in that in the controversy in the latter case extending over a long period, the claims of Venezuela had been repeatedly and distinctly formulated and supported

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by continual protests against the alleged aggressions of Great Britain. In the case of the Alaskan Boundary, on the other hand, there was no discussion until comparatively recent years, and though both Her Majesty's Government and the Dominion Government were aware that the United States believed and claimed that the Treaty intended the boundary to go around the head of the Lynn Channel, and the Canadian Government had in 1888 suggested that a protest should be made against the United States claim, the language in which the protest was conveyed to that Government by Her Majesty's Minister was not sufficiently precise, and the claim was never formally and directly challenged in express terms. Moreover, the action of your Ministers in establishing their Customs station on the eastern side of the mountains bordering the channel without any formal notice to the United States that the headwaters of the Channel were claimed by the Dominion, would naturally be construed as an acquiescence in the United States claim. There was, again, in the case of the Venezuela boundary no question involved of a possible transfer of jurisdiction over organized towns or settlements of the size and population of Dyea and Skagway, and there does not appear to be any previous case of a boundary dispute in which the possession of towns or settlements of such importance was in question. This fact and the absence of any explicit statement of claim by Her Majesty's Government, at the time when those towns were being formed, to the territory upon which they are situated, render it improbable, that any Tribunal with the discretion allowed by Section *C.* of the rules applied in the Venezuela dispute would, even if satisfied that the territory in question belonged of right to Her Majesty, decree that it should be surrendered by the United States, and, if they were to do so it is unlikely, looking to the nature and extent of the interests involved, that those immediately concerned would submit peaceably to such an arrangement.

Looking, therefore, at the situation in all its aspects, Her Majesty's Government are convinced that even if the boundary question were submitted to arbitration on terms exactly similar to those of the Venezuela case that, United States possession of Dyea and Skagway would not be disturbed.

In these circumstances the only question really remaining to be decided, so far as the Lynn Canal region is concerned, is that of the valley of the Chilkat, along which, by the Dalton Trail and Pyramid Harbour, access can be gained to the interior, and the compensation, if any, to be given in the event of the British interpretation being accepted, for the occupation of the Taiya inlet by the United States; and Her Majesty's Government, as matters stand, entertain considerable doubt as to the expediency of continuing to press for arbitration on terms which would appear to raise doubt as to the position of Dyea and Skagway, seeing that the facts above mentioned appear to them already to have practically disposed of this question.

It is impossible to avoid the conviction that to do so would have the result of indefinitely postponing a settlement, and most probably of throwing away whatever chance there may be of securing Pyramid Harbour and the Chilkat Valley for Canada.

The provisional line agreed to places the whole of the shores of the Lynn Canal in the possession of the United States. Parts of the country along the Dalton Trail have already proved rich in placer gold, and with prospectors steadily at work throughout, further discoveries may be announced at any time, the result of which would be the formation of a United States settlement at Pyramid Harbour as large as at Skagway, which it would be equally impracticable to disturb. The whole of the rest of the lisière is also undefined, and so long as it remains so and the United States claim on the one hand the full breadth of ten marine leagues throughout its length, while Her Majesty's Government maintain that the boundary should be drawn along the mountain summits generally at less than half that difference from the coast, there will be within this disputed area ample opportunity for encroachment, and for a possible conflict of jurisdiction.

The claim the United States, moreover, to the islands commanding the entrance to Observatory Inlet, a claim which however unfounded it may be, is not likely to be withdrawn except on the result of arbitration, seriously affects the military security of the only practical route alternative to the Lynn Canal by which Canada can secure an all British communication with the Yukon Territories.

If therefore no settlement is reached not only will Canada lose any chance of securing a lodgment on the Lynn Canal affording access to the hinterland, but the value of the route by Observatory Inlet will be impaired, and the Dominion will remain exposed to the loss of what may be valuable territory all along the lisière, and to the risks of conflict of jurisdiction attending an unsettled boundary; risks which are much more probable now that the whole area is being actively explored for gold.

There is the further consideration, that until an arrangement has been reached in regard to the boundary, no settlement can be made of the numerous other questions at issue between the United States and Canada. In ordinary circumstances these questions do not, it is true give rise to any serious difficulty, but in times of popular excitement or in the event of any untoward circumstance leading to a temporary strain of the friendly relations now happily subsisting between this country and the United States, an incident might arise in connection with any of these outstanding

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matters, which would lend itself to exaggeration and open up the possibility of serious misunderstanding.

These considerations have forced Her Majesty's Government to the conclusion that it would be desirable in the best interests of Canada and the Empire to meet the objections of the United States to arbitration on the boundary dispute by offering to agree to an addition to the rules adopted in the Venezuelan Treaty, on the lines of the enclosed draft which was submitted to Sir L. Davies, but was not regarded by him as acceptable to Canada.

In such a matter Her Majesty's Government of course recognize that the decision must rest with your Ministers, who are responsible to the people of Canada for the protection of the interests of the Dominion, and while they have thought it necessary to place their views on record, they have no desire to force them upon your Government, and will continue to use every effort to reach a settlement acceptable to the Government and people of the Dominion.

I have, &c.,

(Sgd.) J. CHAMBERLAIN.

Governor General
The Right Honourable
The Earl of MINTO, G.C.M.G.

Copy.

(Enclosure in 'Very Confidential' despatch of November 1, 1899.)

Where such occupation by the subjects or citizens of either party in the territory of the other, has been so extensive as to form a distinct settlement or town and provision has been made prior to March, 1898 by or under the laws and authority of the Government whose subjects or citizens they are, for municipal or other local Government and for the administration of justice, police and revenue within such settlement or town, the arbitrators shall define and mark out reasonable limits for such town or settlement, and shall leave it within the jurisdiction of the party which has provided for its administration as aforesaid, and shall in the delimitation of the remainder of the boundary award to the other party equitable compensation for the loss of the territory covered by such town or settlement.